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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,527	02/08/2002	Christopher Sclafani	4702	9908

7590
Charles I. Brodsky
2 Bucks Lane
Marlboro, NJ 07746

04/15/2003

EXAMINER

BREVARD, MAERENA W

ART UNIT PAPER NUMBER

3727

DATE MAILED: 04/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/068,527

Applicant(s)

SCLAFANI

Examiner

Maerena W. Brevard

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign mentioned in the description: 20. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to because the lower section "16" is shown in the drawings as the side section. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the first strap (22) and the second strap (24) extending through the lower section in Figure 1 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the padded fabric covering and pocket must be shown or the features canceled from the claims. No new matter should be entered.

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A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 4-7 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The fabric covering over the open-bottom top and across the opposing ones of the edge surfaces forming a pocket enclosure was not described or shown and is thus unclear and indefinite.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the term "open-bottom top" in line 4 is unclear since it appears the top is the portion intended for holding a child.

Claim 1 recites the limitation "edge surfaces" in line 7. There is insufficient antecedent basis for this limitation in the claim.

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The dependent claims not specifically mentioned are rejected as being dependent upon a rejected base claim, since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 8-14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colombo et al. in view of Derosier.

Colombo discloses an infant and small child carrier comprising a seat (10) including an open-bottom top (12), a downwardly extending lower section (14), a pair of side sections (12A), and a first strap (B) through the lower section to encircle the waist of the user, but does not teach a second strap through the lower section and coupled to the first strap. However, Derosier teaches a child carrier comprising a second strap (30, 31) couplable with a first strap. It would have been obvious to attach the second strap to the first strap of Colombo at locations near lead lines G and C (as shown in figure 2). Doing so would provide additional means of supporting the child closer to the wearer's body.

Regarding claims 8-14, Colombo discloses the upwardly extending upper section including a first portion of a first upwards angle and a second portion contiguous with a second, lesser upwards angle (Figure 5); the second portion of the upwardly extending upper section is contoured curvilinearly downwards (Figures 3 and 5); the downwardly extending lower section

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includes a first portion of a first downward angle (Figure 2, from the top portion to the end of the belt) and a second portion contiguous and with a lesser downward angle (Figure 2, below the belt line); the second portion of the downwardly extending lower portion is contoured curvilinearly upward, to the same degree claimed; the first and second straps of the modified carrier extend through the first portion of the downwardly extending lower section (Figure 2) and each of the side sections includes a first portion of a first downward angle and a second portion contiguous with a second lesser downward angle (Figures 3 and 4).

Regarding claim 19, the downwardly extending lower section is of a length greater than the length of the upwardly extending upper section (Figure 2).

11. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colombo in view of Derosier as applied to claim 1 above, and further in view of Kataoka et al.

The modified carrier of Colombo teaches all of the limitations except padded fabric covering over the open-bottom top. However, Kataoka teaches padded fabric covering (39, 40, 41) on a baby carrier (Column 8, lines 32-33). It would have been obvious to place the padded fabric covering on the modified carrier of Colombo. Doing so would provide cushioning for the carried baby.

Allowable Subject Matter

12. Claims 15-18 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Swenson et al., Ammerman et al., Nakayama, Halligan, Rosen, and Larreategui are cited for child carriers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maerena W. Brevard whose telephone number is 703/305-0037. The examiner can normally be reached on M-Th; 8:00 AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703/308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703/872-9302 for regular communications and 703/872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/305-0037.

MWB
Maerena Brevard
April 7, 2003

Lee W Young
4/7/03
LEE YOUNG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700